

EXHIBIT “J”

RICK A YARNALL
Chapter 13 Bankruptcy Trustee
Daniel Riggs, Esq.
Nevada Bar No. 12270
701 Bridger Ave., Ste 820
Las Vegas, NV 89101
(702) 853-4500
RAY13mail@lasvegas13.com

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

TERESA RENITA BURWELL

Debtor.

BK-23-12054-mkn
Chapter 13

Hearing Date: August 31, 2023
Hearing Time: 2:00 p.m.

TRUSTEE'S MOTION TO DISMISS CASE
PURSUANT TO 11 U.S.C. § 1307(c)(1), (3) AND (4)

COMES NOW Chapter 13 Bankruptcy Trustee, RICK A. YARNALL, by and through his counsel of record, Daniel Riggs, Esq., and hereby moves this Honorable Court for an Order dismissing the instant case for unreasonable delay by the debtor that is prejudicial to creditors, failure to timely file a plan and failure to commence payments pursuant to 11 U.S.C § 1307(c)(1), (3) and (4).

11 U.S.C. § 1321 and Fed. R. Bankr. Proc. 3015(b) requires chapter 13 debtors to file a plan within 14 days of filing their petition. Section 1307(c)(3) states that a case may be dismissed for failure to timely file a plan. The Debtor filed the instant case on May 22, 2023. See Docket No. 1. The Debtor was required to file the plan by June 5, 2023. The Debtor still has not filed the plan. Therefore, Trustee requests that the instant case be dismissed.

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1 Further, Section § 1326(a)(7) requires debtors to commence making plan payments no later
2 than 30 days after the filing of the plan or the order for relief, which is earlier. Section 1307(c)(4)
3 states that a case may be dismissed for failure to commence making timely payments under § 1326.
4 In this case, the Debtor should have commenced making payments on June 2, 2023. The Debtor has
5 yet to make a payment. As such, Trustee requests that the instant case be dismissed.

6 Finally, 11 U.S.C. § 1307(c)(1) states that a case may be dismissed for unreasonable delay by
7 the debtor that is prejudicial to creditors. The Debtor's delay in filing a plan, failure to set a
8 confirmation hearing and failure to commence plan payments constitutes an unreasonable delay that
9 is prejudicial to the creditors. The Debtor's creditors are harmed by the delay because the automatic
10 stay is in effect while the Debtor has done nothing to move the case forward. Dismissal is also
11 warranted for Debtor's unreasonable delay in prosecuting this case.

12 WHEREFORE, the Trustee respectfully requests that this Honorable Court issue an
13 Order dismissing the instant case pursuant to § 1307(c)(1), (3) and (4).

14 DATED this 1st day of August, 2023.

15 Submitted by:

16 

17 Daniel Riggs, Esq.
18 Nevada Bar No. 12270
19 701 Bridger Ave., Suite 820
20 Las Vegas, NV 89101
21 Attorney for RICK A. YARNALL,
22 Chapter 13 Bankruptcy Trustee
23

[PROPOSED ORDER]

RICK A YARNALL
Chapter 13 Bankruptcy Trustee
Daniel Riggs, Esq.
Nevada Bar No. 12270
701 Bridger Ave., Ste 820
Las Vegas, NV 89101
(702) 853-4500
RAY13mail@lasvegas13.com

E-Filed: _____

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

BK-23-12054-mkn
Chapter 13

TERESA R. BURWELL

**ORDER ON TRUSTEE'S MOTION TO
DISMISS CASE PURSUANT TO 11 U.S.C. §
1307(c)(1), (3) AND (4)**

Debtor.

Hearing Date: August 31, 2023
Hearing Time: 2:00 p.m.

Trustee's Motion to Dismiss Case Pursuant to 11 U.S.C. § 1307(c)(1), (3) and (4) having come on for hearing in the above-entitled Court on August 31, 2023, at 2:00 p.m., with counsel appearing on behalf of Chapter 13 Bankruptcy Trustee, RICK A. YARNALL, other appearances as noted on record, argument having been heard, and based upon the papers and pleadings on file herein, and good cause appearing:

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1 IT IS HEREBY ORDERED that Trustee's Motion is GRANTED and the above captioned
2 bankruptcy proceeding is DISMISSED pursuant to 11 U.S.C. § 1307(c)(1), (3) and (4);

3 IT IS SO ORDERED.

4 Submitted by:

5
6 _____
7 Daniel Riggs, Esq.
8 Attorney for Rick A. Yarnall,
9 Chapter 13 Bankruptcy Trustee

Date: _____

9 In accordance with LR 9021, counsel submitting this document certifies that the order
10 accurately reflects the court's ruling and that (check one):

11 ____ The court has waived the requirement set forth in LR 9021(b)(1).

12 ____ No party appeared at the hearing or filed an objection to the motion.

13 ____ I have delivered a copy of this proposed order to all counsel who appeared at the
14 hearing, and any unrepresented parties who appeared at the hearing, and each has
15 approved or disapproved the order, or failed to respond , as indicated below [list each
16 party and whether the party has approved, disapproved, or failed to respond to the
17 document]:

18 ____ I certify that this is a case under Chapter 7 or 13, that I have served a copy of this
19 order with the motion pursuant to LR 9014(g), and that no party has objected to the
20 form or content of the order.

21 _____
22 An Employee of Rick A. Yarnall
23 Chapter 13 Bankruptcy Trustee

Date: _____

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CERTIFICATE OF MAILING

I hereby certify that I am an employee of RICK A. YARNALL, Chapter 13 Trustee; that I am over the age of 18 years; and that on the 1st day of August, 2023, I provided a copy of the **Trustee's Motion to Dismiss Case Pursuant to 11 U.S.C. § 1307(c)(1), (3) and (4) and Notice of Hearing** to each of the following by:

☒ a. **ECF System:**

- **RICK A. YARNALL** ecfmail@LasVegas13.com,
ecfimport@lasvegas13.com

☒ b. **United States mail, postage fully prepaid:**

TERESA R. BURWELL
9344 VISTA WATERS LANE
LAS VEGAS, NV 89178



Employee of
RICK A. YARNALL
CHAPTER 13 BANKRUPTCY TRUSTEE